

Senate Bill 68

By: Senators Sims of the 12th, Wilkinson of the 50th, Parent of the 42nd, Walker III of the 20th, Karinshak of the 48th and others

A BILL TO BE ENTITLED
AN ACT

To amend Title 20 of the Official Code of Georgia Annotated, relating to education, so as to strengthen provisions relating to the financial management of local school systems; to provide for training for local board of education members and local school superintendents on financial management; to provide for monthly reporting to the local board of education on the financial stability of the local school system; to provide for designation by the Department of Audits and Accounts of high-risk local school systems and moderate-risk local school systems based on annual audits; to provide for financial management provisions in flexibility contracts and system charters; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by revising Code Section 20-2-49, relating to standards for local board of education members, as follows:
"20-2-49.

The General Assembly finds that local boards of education play a critical role in setting the policies that lead to the operation and success of local school systems. School board members hold special roles as trustees of public funds, including local, state, and federal funds, while they focus on the singular objective of ensuring each student in the local school system receives a quality basic education. Board duties require specialized skills and training in the performance of vision setting, policy making, approving multimillion dollar budgets, financial management, and hiring a qualified superintendent. The motivation to serve as a member of a local board of education should be the improvement of schools and academic achievement of all students. Service on a local board of education is important citizen service. Given the specialized nature and unique role of membership on a local board of education, this elected office should be characterized and treated

27 differently from other elected offices where the primary duty is independently to represent
28 constituent views. Local board of education members should abide by a code of conduct
29 and conflict of interest policy modeled for their unique roles and responsibilities. And
30 although there are many measures of the success of a local board of education, one is
31 clearly essential: maintaining accreditation and the opportunities it allows the school
32 system's students."

33 SECTION 2.

34 Said title is further amended by revising subsection (e) of Code Section 20-2-51, relating to
35 election of local board of education members, persons ineligible to be members or
36 superintendent, ineligibility for local boards of education, and ineligibility for other elective
37 offices, as follows:

38 "(e) In addition to any other requirements provided by law, no person shall be eligible for
39 election as a member of a local board of education unless he or she:

40 (1) Has read and understands the code of ethics and the conflict of interest provisions
41 applicable to members of local boards of education and has agreed to abide by them; ~~and~~

42 (2) Has agreed to annually disclose compliance with the State Board of Education's
43 policy on training for members of local boards of education, the code of ethics of the
44 local board of education, and the conflict of interest provisions applicable to members of
45 local boards of education; and

46 (3) Has completed all prior annual training requirements established by the local board
47 of education and the State Board of Education pursuant to Code Section 20-2-230 if such
48 person is eligible for reelection as a member of the local board of education.

49 Each person offering his or her candidacy for election as a member of a local board of
50 education shall file an affidavit with the officer before whom such person has qualified for
51 such election prior to or at the time of qualifying, which affidavit shall affirm that he or she
52 meets all of the qualifications required pursuant to this subsection. This subsection shall
53 apply only to local board of education members elected or appointed on or after July 1,
54 2010."

55 SECTION 3.

56 Said title is further amended by revising Code Section 20-2-58, relating to regular monthly
57 meeting of local boards, adjournment, temporary presiding officer, and notice of date, as
58 follows:

59 "20-2-58.

60 (a) It shall be the duty of each local board of education to hold a regular meeting during
61 each calendar month for the transaction of business pertaining to the public schools and to

review the financial status of the local school system. Any such meeting may be adjourned from time to time, and, in the absence of the president or secretary, the members of the local board may appoint one of their own number to serve temporarily. The local board shall annually determine the date of its meeting and shall publish it either in the official county organ or, at the option of the local board of education, in a newspaper having a general circulation in said county at least equal to that of the official county organ for two consecutive weeks following the setting of the date; provided, however, that the date shall not be changed more often than once in 12 months and, if changed, the new date shall also be published as provided in this Code section.

(b) The State Board of Education shall create a template for local boards of education to use to review the financial status of their local school systems, which shall include, at a minimum, a statement of revenues, expenditures, and encumbrances."

SECTION 4.

Said title is further amended by revising Code Section 20-2-61, relating to fundamental roles of local boards of education and local school superintendents, as follows:

"20-2-61.

(a) The fundamental role of a local board of education shall be to establish policy for the local school system with the focus on student achievement. The fundamental role of a local school superintendent shall be to implement the policy established by the local board. It shall not be the role of the local board of education or individual members of such board to micromanage the superintendent in executing his or her duties, but it shall be the duty of the local board to hold the local school superintendent accountable in the performance of his or her duties; provided, however, that requesting and reviewing financial data and documents shall not constitute micromanaging. Local board of education members should work together with the entire local board of education and shall not have authority as independent elected officials but shall only be authorized to take official action as members of the board as a whole. Nothing in this subsection shall be construed to alter, limit, expand, or enlarge any powers, duties, or responsibilities of local boards of education, local board members, or local school superintendents.

(b) Except as may be allowed by law, no local board of education shall delegate or attempt to delegate its policy-making functions."

SECTION 5.

Said title is further amended by revising Code Section 20-2-67, relating to local school system or school subject to corrective action plan for budget deficit, financial operations

form, publication, and mailing to Department of Education and local governing body, as follows:

"20-2-67.

(a) When an audit by the Department of Audits and Accounts finds and reports irregularities or budget deficits in the fund accounting information regarding a local school system or a school within the local school system, the Department of Audits and Accounts shall report the findings of irregularities or budget deficits to the State Board of Education and the local board of education. The Department of Audits and Accounts shall designate local school systems that have had reported irregularities or budget deficits for three or more consecutive years as high-risk local school systems and shall designate local school systems that have had reported irregularities or budget deficits for one year or two consecutive years as moderate-risk local school systems.

(b) The State Board of Education shall inform the superintendent of the local school system of the irregularities or budget deficits regarding a local school system's or a school's fund accounting information, including if a local school system has been designated as a high-risk local school system or moderate-risk local school system. The superintendent shall submit to the Department of Education a response to the findings and a corrective action plan approved by the local board of education at a board meeting within 120 days of receiving notice of designation as a high-risk local school system or moderate-risk local school system, as defined by rules and regulations adopted by the State Board of Education designed to correct the financial irregularities or budget deficits for the school or school system. From the time such irregularity or budget deficit is discovered until the time it is eliminated, the local school superintendent shall present to each member of the local board of education for his or her review and written acknowledgment a monthly report containing all anticipated expenditures by budget function for such school or school system during the current month. The report shall be presented to local board members on or before the tenth business day of each month. Each monthly report shall be signed by each member of that local board and recorded and retained in the minutes of the meeting of the local board of education.

(c) Not later than September 30 of the year, each local board of education shall cause to be published in the official county organ wherein the local school system is located once a week for two weeks a statement of actual financial operations for such schools or school system identified by the Department of Audits and Accounts as having financial irregularities. Such statement of actual financial operations shall be in a form to be specified and prescribed by the state auditor for the purpose of indicating the current financial status of the schools or school system. Prior to publication, such form shall be

executed by the local board of education and signed by each member of said board and the local school superintendent.

(d) A copy of the actual financial operations form required to be published by subsection (c) of this Code section shall be mailed by each local board of education to the Department of Education and the local county board of commissioners or local municipal governing authority. A current copy of said form shall be maintained on file in the central administrative office of the local school system for public inspection for a period of at least two years from the date of its publication. Copies of the statement shall be made available on request."

SECTION 6.

Said title is further amended by revising Code Section 20-2-82, relating to contract terms for local school systems requesting flexibility, as follows:

"20-2-82.

(a) The local board of education and the department shall enter into negotiations on the appropriate terms of the contract, including the accountability, flexibility, and consequences components of the contract in accordance with Code Section 20-2-84, in consultation with the Office of Student Achievement. The accountability, flexibility, and consequences components may vary between schools and clusters.

(b) The flexibility requested by a local school system pursuant to subsection (b) of Code Section 20-2-84 shall result in consequences in accordance with subsection (c) of Code Section 20-2-84 and Code Section 20-2-84.1 for noncompliance with the accountability requirements established pursuant to subsection (a) of Code Section 20-2-84.

(c) The department, in consultation with the Office of Student Achievement, shall make a recommendation to the state board on whether the proposed terms of the contract should be approved by the state board. Such proposed terms of the contract shall require that a local school system has not been designated as a high-risk local school system by the Department of Audits and Accounts pursuant to Code Section 20-2-67, or if it has been designated as a high-risk local school system, the contract shall require that the local school system has a written corrective action plan in place and that local school system board members and appropriate personnel participate in required training to address the deficiencies.

(d)(1) The state board shall have the authority to approve or deny approval of the proposed terms of the contract but shall give all due consideration to the recommendation and input from the Office of Student Achievement.

(2) In the event that the state board denies approval of the proposed terms of the contract, the local board of education shall work with the department, in consultation with the Office of Student Achievement, for further revisions and resubmission to the state board.

(e) The state board shall be authorized to approve a waiver or variance request of specifically identified state rules, regulations, policies, and procedures or provisions of this chapter upon the inclusion of such request in the local school system's proposed contract and in accordance with subsection (b) of Code Section 20-2-84. The goal for each waiver and variance shall be improvement of student performance. The state board shall not be authorized to waive or approve variances on any federal, state, and local rules, regulations, court orders, and statutes relating to civil rights; insurance; the protection of the physical health and safety of school students, employees, and visitors; conflicting interest transactions; the prevention of unlawful conduct; any laws relating to unlawful conduct in or near a public school; any reporting requirements pursuant to Code Section 20-2-320 or Chapter 14 of this title; the requirements of Code Section 20-2-210; the requirements of Code Section 20-2-211.1; or the requirements in subsection (c) of Code Section 20-2-327. A local school system that has received a waiver or variance shall remain subject to the provisions of Part 3 of Article 2 of Chapter 14 of this title, the requirement that it shall not charge tuition or fees to its students except as may be authorized for local boards by Code Section 20-2-133, and shall remain open to enrollment in the same manner as before the waiver request."

SECTION 7.

Said title is further amended by revising Code Section 20-2-83, relating to state board approval of local school board flexibility contract, as follows:

"20-2-83.

(a) Upon approval of a proposed contract of a local school system which has requested flexibility, the state board shall enter into such contract with the local board of education.

(b) The terms of the contract shall include, but not be limited to, accountability, flexibility, and consequences components as negotiated pursuant to subsection (a) of Code Section 20-2-82 and in accordance with Code Section 20-2-84.

(c) The terms of the contract shall also include specific requirements relating to maintaining or achieving financial stability of the local school system, including ensuring that the local school system has not been designated as a high-risk local school system by the Department of Audits and Accounts pursuant to Code Section 20-2-67, or if it has been designated as a high-risk local school system, that it has a written corrective action plan in place and that local school system board members and appropriate personnel participate in required training to address the deficiencies.

~~(c)~~(d) Each contract shall be for a term of six years. The terms of the contract may provide for automatic extension of such contract if a local school system has met its accountability requirements.

~~(d)~~(e) The terms of a contract may be amended during the term of the contract only upon approval of the state board and the local board of education."

SECTION 8.

Said title is further amended by revising Code Section 20-2-84.2, relating to state monitoring, as follows:

"20-2-84.2.

(a) The Office of Student Achievement shall revise the single state-wide accountability system established pursuant to paragraph (1) of subsection (a) of Code Section 20-14-26 for submission to the state board for approval to integrate the requirements of this article, to the greatest extent practicable, including, but not limited to, the loss of governance consequences provided for in Code Section 20-2-84.1.

(b) The Office of Student Achievement shall monitor each local school system's progress toward meeting its performance goals in its contract and shall the notify the department if a local school system is not in compliance with such performance goals. The department shall provide support and guidance to school systems not meeting their yearly progress goals. In addition, the Office of Student Achievement shall monitor each local school system's financial stability and provide support and guidance to local school systems that are designated as high-risk local school systems or moderate-risk local school systems by the Department of Audits and Accounts pursuant to Code Section 20-2-67 or are at risk of being designated as high-risk local school systems or moderate-risk local school systems."

SECTION 9.

Said title is further amended by revising Code Section 20-2-103, relating to oath of local school superintendent, as follows:

"20-2-103.

Before entering upon the discharge of his or her official duties, the local school superintendent shall take and subscribe to the following oath of office:

STATE OF GEORGIA

COUNTY OF _____

I, _____, do solemnly swear or affirm that I will truly perform the duties of local school superintendent of the _____ School System to the best of my ability.

I do further swear or affirm:

(1) That I am not the holder of any unaccounted for public money due this state or any political subdivision or authority thereof and that I will manage the finances of the local school system in compliance with all applicable laws and regulations;

(2) That I am not the holder of any office of trust under the government of the United States, any other state, or any foreign state which I am by the laws of the State of Georgia prohibited from holding;

(3) That I am otherwise qualified to hold said office according to the Constitution and the laws of Georgia; and

(4) That I will support the Constitution of the United States and of this state.

Signature of local school superintendent

Typed name of local school superintendent

Sworn and subscribed
before me this _____ day
of _____, _____.
(SEAL)."

SECTION 10.

Said title is further amended by revising Code Section 20-2-109, relating to duties of local school superintendents, as follows:

"20-2-109.

(a) The local school superintendent shall constitute the medium of communication between the State School Superintendent and subordinate local school officers. The local school superintendent shall be the executive officer of the local board of education; shall be the agent of the local board in procuring such school equipment and materials as it may order; shall ensure that the prescribed textbooks are used by students; shall verify all accounts before an application is made to the local board for an order for payment; and shall keep a record of all official acts, which, together with all the books, papers, and property appertaining to the office, shall be turned over to the successor. It shall be the local school superintendent's duty to enforce all regulations and rules of the State School Superintendent and of the local board according to the laws of the state and the rules and regulations made by the local board that are not in conflict with state laws; and to visit every school within the local school system to become familiar with the studies taught in

the schools, observe what advancement is being made by the students, counsel with the faculty, and otherwise aid and assist in the advancement of public education.

(b) The local school superintendent shall report monthly to the local board of education the financial status of the local school system in accordance with Code Section 20-2-58. Each local board of education which governs a local school system that has been designated as a high-risk local school system or moderate-risk local school system by the Department of Audits and Accounts pursuant to Code Section 20-2-67 shall require the local school superintendent to complete training on financial management and financial governance of a local school system."

SECTION 11.

Said title is further amended by revising Code Section 20-2-230, relating to staff development programs, as follows:

"20-2-230.

(a) All public school officials and professional personnel certificated by the Professional Standards Commission shall be provided the opportunity to continue their development throughout their professional careers. The primary purpose of the staff development sponsored or offered by local boards of education and the Department of Education shall be the implementation of this policy. Two additional purposes of such staff development programs shall be to adopt into general practice the findings of scientifically designed research which has been widely replicated, particularly as it relates to teacher and school effectiveness, and to address professional needs and deficiencies identified during the process of objective performance evaluations.

(b)(1) The State Board of Education shall adopt a training program for members of local boards of education by July 1, 2011. The State Board of Education may periodically adopt revisions to such training program as it deems necessary.

(2) Within three months of adoption by the State Board of Education of a training program pursuant to paragraph (1) of this subsection, each local board of education shall adopt a training program for members of such boards that includes, at a minimum, such training program and requirements established by the State Board of Education pursuant to paragraph (1) of this subsection. Each local board of education shall incorporate any revisions adopted by the State Board of Education to the training program pursuant to paragraph (1) of this subsection within three months of adoption of such revisions.

(3) All local boards of education are authorized to pay such board members for attendance at a required training program the same per diem as authorized by local or general law for attendance at regular meetings, as well as reimbursement of actual

expenses for travel, lodging, meals, and registration fees for such training, either before or after such board members assume office.

(c) The State Board of Education shall require each newly elected member of a local board of education to receive guidance and training regarding his or her own local school system's most recent audit findings and the risk status of the local school system as determined by the Department of Audits and Accounts or the Department of Education. Such training for newly elected board members shall also include training on the role of the local school superintendent with respect to financial management and financial governance of a local school system.

(d) The State Board of Education shall require members of local boards of education to complete the training required under this Code section with either the Department of Education or the Department of Audits and Accounts if the local board of education has been designated by the Department of Audits and Accounts as a high-risk local school system pursuant to Code Section 20-2-67 or if the Department of Audits and Accounts has determined that corrective actions have not been implemented or devised to correct serious findings in the local school system's Department of Audits and Accounts audit report from the previous year."

SECTION 12.

Said title is further amended by revising Code Section 20-2-2063.2, relating to charter systems, as follows:

"20-2-2063.2.

(a) The state board shall be authorized to enter into a charter with a local board to establish a local school system as a charter system.

(b) A local board seeking to create a charter system must submit a petition to the state board. Prior to submitting such petition, the local board shall:

(1) Adopt a resolution approving the proposed charter system petition;

(2) Conduct at least two public hearings and provide notice of the hearings in the same manner as other legal notices of the local board; and

(3) Send a notice to each principal within the local school system of the hearings with instructions that each school shall distribute the notice to faculty and instructional staff members and to the parent or guardian of each student enrolled in the school.

The local board may revise its proposed charter system petition, upon resolution, as a result of testimony at the public hearings or for other purposes.

(c) Prior to approval or denial of a charter petition for a charter system, the state board shall receive and give all due consideration to the recommendation and input from the Charter Advisory Committee established in Code Section 20-2-2063.1. The state board

shall approve the charter if the state board finds, after receiving input from the Charter Advisory Committee, that the petition complies with the rules, regulations, policies, and procedures promulgated pursuant to Code Section 20-2-2063 and the provisions of this title, is in the public interest, and promotes school level governance. A charter for a charter system shall include the interventions, sanctions, and loss of governance consequences contained in Code Section 20-14-41. A charter for a charter system shall require that the local school system has not been designated as a high-risk local school system by the Department of Audits and Accounts pursuant to Code Section 20-2-67, or if it has been designated as a high-risk local school system, the charter shall require that the local school system has a written corrective action plan in place and that local school system board members and appropriate personnel participate in required training to address the deficiencies.

(d) All schools within an approved charter system shall be system charter schools except as otherwise provided in subsections (f) and (g) of this Code section.

(e)(1) Subject to appropriations by the General Assembly or other available funding, the state board, after receiving input and recommendations from the Charter Advisory Committee, shall disburse planning grants to local school systems which desire to become charter systems. Such grants will be disbursed in accordance with any applicable guidelines, policies, and requirements established by the state board.

(2) Subject to specific appropriations by the General Assembly for this purpose, the state board shall disburse implementation grants in the amount of \$125,000.00 or such other amount as determined by the state board to each charter system. The state board shall be authorized to approve up to five petitions for charter systems during fiscal year 2008, and may approve up to a maximum number of petitions in following years as may be established pursuant to board rules and as subject to availability of funding for implementation grants.

(f) A system charter school shall not be precluded from petitioning to become a conversion charter school, in accordance with Code Section 20-2-2064, not subject to the terms of the system charter. In the event a system charter school becomes a conversion charter school, the system charter shall be amended to reflect that such school is no longer bound by the system charter.

(g) An existing conversion or start-up charter school within a local school system which is petitioning to become a charter system shall have the option of continuing under its own existing charter, not subject to the terms of the system charter, or of terminating its existing charter, upon agreement by the local board and state board, and becoming subject to the system charter as a charter system school."

SECTION 13.

Said title is further amended by revising subsection (a) of Code Section 20-2-2063.3, relating to code of principles and standards for charter school authorizers, as follows:

"(a) The State Board of Education and the State Charter Schools Commission shall jointly establish a code of principles and standards of charter school authorizing to guide local boards of education, the state board, and the State Charter Schools Commission in meeting high-quality authorizing practices. The principles and standards established by the state board and the State Charter Schools Commission shall include:

(1) Maintaining high standards for approving charter petitions;

(2) Establishing high academic, financial, and operational performance standards for charter schools;

(3) Annually monitoring, evaluating, and reporting charter school progress in meeting academic, financial, and operational performance standards, including ensuring that a local school system has not been designated as a high-risk local school system by the Department of Audits and Accounts pursuant to Code Section 20-2-67, or if it has been designated as a high-risk local school system, that it has a written corrective action plan in place and that local school system board members and appropriate personnel participate in required training to address the deficiencies;

(4) Upholding charter school autonomy in school governance, instructional program implementation, personnel, and budgeting;

(5) Protecting students and holding charter schools accountable for their obligations to all students; and

(6) Protecting the public interest and holding charter schools accountable for their obligations of governance, management, and oversight of public funds."

SECTION 14.

All laws and parts of laws in conflict with this Act are repealed.